

Message Text

CONFIDENTIAL

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ORIGIN SS-07

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DRAFTED BY: S/S-O: DFINNERTY

APPROVED BY: S/S-O: KKURZE

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO IMMEDIATE

INFO TREASURY IMMEDIATE

C O N F I D E N T I A L STATE 179021

TO ECO/TOSHU 1

FOLLOWING SENT ACTION TRIPOLI INFO ALL OECD CAPITALS, BRASILIA,
RIO DE JANEIRO, JIDDA, KUWAIT, TEHRAN, ABU DHABI, ALGIERS, TUNIS,
LAGOS, JAKARTA, CARACAS, CAIRO FROM SECSTATE SEP 08 REPEATED YOU:

QUOTE

C O N F I D E N T I A L STATE 179021

E.O. 11652 DECEMBER 31, 1979

TAGS: ENGR

SUBJ: OIL COMPANY NATIONALIZATION: DEPARTMENT
PRESS STATEMENT

1. FOLLOWING IS TEXT OF STATEMENT REGARDING AMERICAN
OIL COMPANY NATIONALIZATION WHICH DEPARTMENT EXPECTS
RELEASE WITHIN TWO TO THREE DAYS. EMBASSY SHOULD
WHEN INSTRUCTED BY SUBSEQUENT MESSAGE CONCERNING TIME
OF RELEASE ENDEAVOR DELIVER TEXT TO LARG FOREIGN
MINISTRY WITH COVERING NOTE IN TIME TO COINCIDE AS
NEARLY AS POSSIBLE WITH WASHINGTON RELEASE TIME.

2. BEGIN TEXT: " THE DEPARTMENT OF STATE HAS NOW
REVIEWED THE NATIONALIZATION DECREE OF THE GOVERNMENT
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OF THE LIBYAN ARAB REPUBLIC THAT WAS MADE PUBLIC ON

SEPTEMBER 1, 1973 AS WELL AS A REPORT OF COMMENTS THEREON OF PRIME MINISTER JALLUD. THAT DECREE SEEKS TO IMPOSE ON CERTAIN AMERICAN AND OTHER OIL COMPANIES OPERATING IN LIBYA (STANDARD OIL COMPANY OF CALIFORNIA, TEXACO INC, EXXON, MOBIL OIL COMPANY, ARCO AND GRACE PETROLEUM) FUNDAMENTAL CHANGES IN THEIR CONTRACTUAL RELATIONS WITH LIBYA WITHOUT OFFERING ADEQUATE COMPENSATION FOR NATIONALIZED PROPERTIES.

THERE IS NO INDICATION THAT THE GOVERNMENT OF LIBYA INTENDS TO PROVIDE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION FOR THE FOREIGN INVESTMENTS AFFECTED BY THIS DECREE AS REQUIRED BY INTERNATIONAL LAW. THE "NET BOOK VALUE" FORMULA FOR COMPENSATION DESCRIBED BY THE LIBYAN PRIME MINISTER IS FAR LESS THAN THE FAIR VALUE OF THE PROPERTIES INVOLVED AND DOES NOT MEET THE MINIMUM STANDARDS FOR COMPENSATION REQUIRED BY INTERNATIONAL LAW.

THE CONCESSION AGREEMENTS GOVERNING THE OPERATIONS OF THE OIL COMPANIES SPECIFICALLY PROVIDE THAT: "THE CONTRACTUAL RIGHTS EXPRESSLY CREATED BY THIS CONCESSION SHALL NOT BE ALTERED EXCEPT BY MUTUAL CONSENT OF THE PARTIES." THEY FURTHER PROVIDE FOR ARBITRATION OF DISPUTES NOT OTHERWISE SETTLED. ACCORDINGLY, THE PROPER REMEDY FOR CURRENT DISPUTES BETWEEN THE COMPANIES AND THE LIBYAN GOVERNMENT IS ARBITRATION. THE U.S. GOVERNMENT UNDERSTANDS THAT COMPANIES IN QUESTION HAVE REQUESTED ARBITRATION: IT TRUSTS THAT THE GOVERNMENT OF THE LIBYAN ARAB REPUBLIC WILL MEET ITS ARBITRAL OBLIGATIONS. FAILURE TO DO SO WOULD CONSTITUTE A DENIAL OF JUSTICE AND AN ADDITIONAL BREACH OF INTERNATIONAL LAW.

IN THE VIEW OF THE GOVERNMENT OF THE UNITED STATES THE EXPROPRIATION OF 51 PER CENT OF THE INTERESTS OF THESE AMERICAN COMPANIES OPERATING IN LIBYA WITHOUT RESORT TO FURTHER NEGOTIATION OR ARBITRATION AND WITHOUT THE OFFER OF ADEQUATE COMPENSATION IS IN VIOLATION OF INTERNATIONAL LAW.

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THE UNITED STATES DEPLORES THE UNILATERAL ACTION TAKEN BY THE GOVERNMENT OF THE LIBYAN ARAB REPUBLIC IN THIS CASE. THE UNITED STATES GOVERNMENT HAS SUPPORTED EFFORTS MADE TO RESOLVE DISPUTES BY MUTUAL AGREEMENT ON REASONABLE TERMS. UNILATERAL, COERCIVE MEASURES SUCH AS THOSE TAKEN BY THE LIBYAN GOVERNMENT NOT ONLY UNDERMINE THE LEGAL BASIS FOR INTERNATIONAL

TRADE AND INVESTMENT BUT SEVERELY PREJUDICE
COOPERATIVE RELATIONS AMONG STATES. END TEXT.

3. IF EMBASSY HAS OPPORTUNITY TO MAKE ORAL REPRESENTA-
TION WHEN DELIVERING STATEMENT, REQUEST YOU EMPHASIZE
IMPORTANCE USG ATTACHES TO ARBITRATION BETWEEN LARG
AND COMPANIES. IN OUR VIEW, ARBITRATION PRESENTS
GENUINE OPPORTUNITY FOR AMICABLE RESOLUTION OF CURRENT
DIFFICULTIES.

4. INFO ADDRESSEES WILL ALSO BE AUTHORIZED BY
SUBSEQUENT TELEGRAM DELIVER TEXT TO HOST GOVERNMENTS
AT THIERDISCRETION AT TIME OF WASHINGTON RELEASE OR
LATER. TAKE CARE TO AVOID PREMATURE DISCLOSURE. RUSH

UNQUOTE RUSH

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NNN

Message Attributes

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